



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,116	11/07/2001	Curtis C. Ballard	10005002-1	2123

7590 01/26/2005  
HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.B. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

ENGLAND, DAVID E

ART UNIT	PAPER NUMBER
----------	--------------

2143

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/007,116	<b>Applicant(s)</b> BALLARD, CURTIS C.	
	<b>Examiner</b> David E. England	<b>Art Unit</b> 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/7/01, 10/6/03</u> . | 6) <input type="checkbox"/> Other: _____  |

*DE*

### DETAILED ACTION

1. Claims 1 – 21 are presented for examination.

#### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “a jukebox” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “said second message instructs said networked device manager to cause said networked device to use redundant hardware” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “said second message instructs said networked device manager to cause a reconfiguration of said networked device” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “said second message instructs said networked device manager to replace a software module contained within said networked device with a replacement software module” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Art Unit: 2143

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 – 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2143

8. Claim 1 recites the limitation "said server" in page 7, line 9. There is insufficient antecedent basis for this limitation in the claim. The claim language recites two different servers a remote server and "said server" which this rejection is based on.

9. Claims 2 – 11 are rejected under 35 U.S.C. 112, second paragraph, for their dependency to claim 1.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1 – 7, 10 and 12 – 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Reichman U.S. Patent No. 6738813.

12. Referencing claim 1, Reichman teaches a data collection and transmittal system for a networked device, the networked device performing a stand-alone dedicated function, the system comprising:

13. data collection logic configured to collect information pertaining to said networked device, (e.g. col. 6, lines 17 – 34);

Art Unit: 2143

14. message generation logic configured to generate an electronic message containing at least a portion of said collected information, (e.g. col. 2, lines 29 – 41); and

15. a communication system connecting said networked device to a remote server via a digital network, (e.g. col. 3, lines 55 – 67),

16. said server configured to process said message from said message generation logic, (e.g. col. 4, lines 41 – 53); and

17. said message generation logic responsive to a triggering event so as to cause said message to be transmitted to said remote server, (e.g. col. 6, lines 18 – 34).

18. Referencing claim 2, Reichman teaches said data collection logic is further configured to collect performance information from said networked device indicative of at least one performance criteria, wherein said performance information is included in said collected information, (e.g. col. 5, lines 55 – 65).

19. Referencing claim 3, Reichman teaches said message generation logic is responsive to an elapsed time, (e.g. col. 6, line 65 – col. 7, line 9).

20. Referencing claim 4, Reichman teaches said message generation is responsive to a message received from said remote server, (e.g. col. 8, lines 44 – 55).

21. Referencing claim 5, Reichman teaches said digital network comprises the Internet, (e.g. col. 3, lines 55 – 67).

Art Unit: 2143

22. Referencing claim 6, Reichman teaches said collected information contains error information, (e.g. col. 6, lines 18 – 34).

23. Referencing claim 7, Reichman teaches a non-human networked device manager at least partially defined by software components, said networked device manager responsive to a second message which directs said networked device manager to perform a specific action, (e.g. col. 8, lines 26 – 43).

24. Referencing claim 10, Reichman teaches said second message instructs said networked device manager to cause a reconfiguration of said networked device, (e.g. col. 6, lines 35 – 48).

25. Claims 12 – 21 are rejected for similar reasons as stated above.

***Claim Rejections - 35 USC § 103***

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reichman as applied to claim 1 above, and in view of Oskay et al. (5642337) (hereinafter Oskay).

28. As per claim 8, as closely interpreted by the Examiner, Reichman does not teach said networked device is jukebox. Oskay teaches said networked device is jukebox, (e.g. col. 3, lines 51 – 67). It would have been obvious to one of ordinary skill in the art at the time the invention was conceived to combine Oskay with Reichman because it is more efficient and common to use a jukebox storage device for large collections of files, such as data bases, image files and video files

29. As per claim 9, as closely interpreted by the Examiner, Reichman does not specifically teach said second message instructs said networked device manager to cause said networked device to use redundant hardware. Oskay teaches teach said second message instructs said networked device manager to cause said networked device to use redundant hardware, (e.g. col. 3, lines 32 – 50). It would have been obvious to one of ordinary skill in the art at the time the invention was conceived to combine Oskay with Reichman because it is more efficient for a system to utilize a type of backup service to ensure that if one system fails or has an error a backup or slave hardware device can take over.

30. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reichman as applied to claim 1 above, and in view of Moberg et al. (6738826) (hereinafter Moberg).

31. As per claim 11, as closely interpreted by the Examiner, Reichman does not specifically teach said second message instructs said networked device manager to replace a software module



Art Unit: 2143

contained within said networked device with a replacement software module, (e.g. col. 1, line 61 – col. 2, line 3). It would have been obvious to one of ordinary skill in the art at the time the invention was conceived to combine Moberg with Reichman because it would be more efficient for a system to have the ability to upgrade the software in a device so the device can handle more information or to process information faster than previously done with the older software.

### ***Conclusion***

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

33. a. Ballhorn U.S. Patent No. 6598230 discloses Multimedia box network.

34. b. Gaddess et al. U.S. Patent No. 6385668 discloses Method and apparatus for compound hardware configuration control.

35. c. McGowen et al. U.S. Patent No. 6779064 discloses System, method, and computer program product for on-line replacement of a host bus adapter.

36. d. Grabelsky et al. U.S. Patent No. 6678250 discloses Method and system for monitoring and management of the performance of real-time networks.

37. e. Tso et al. U.S. Patent No. 6421733 discloses System for dynamically transcoding data transmitted between computers.

38. f. Lamberton et al. U.S. Patent No. 6779017 discloses Method and system for dispatching client sessions within a cluster of servers connected to the world wide web.

Art Unit: 2143

39. g. Tummalapalli U.S. Patent No. 6804714 discloses Multidimensional repositories for problem discovery and capacity planning of database applications.

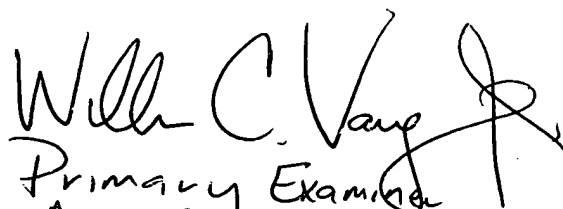
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 571-272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David E. England  
Examiner  
Art Unit 2143

De 

  
Primary Examiner  
Art Unit 2143  
William C. Vaughn Jr.